$~77

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 16th September, 2025

\+ **W.P.(C) 14324/2025**

MUSHLINA .....Petitioner

Through: Mr. Ashish Panday, Adv.

versus

COMMISSIONER OF CUSTOMS .....Respondents

Through: Mr. Vishal Chadha, SSC with Mr. Chandan Kumar, Adv. (9810641379)

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India, *inter alia*, seeking release of the two gold *kadas* of the Petitioner, collectively weighing 205 grams seized by the Customs Department *vide* Detention Receipt bearing No. DR/INDEL4/19.11.2022/000860 dated 19th November, 2022. The Petitioner further seeks implementation of the Order-in-Appeal dated 25th June 2024.

3. The Petitioner had travelled from Riyadh, Saudi Arabia to Delhi on 19th November 2022. Upon arrival at the Indira Gandhi International Airport, New Delhi, the Petitioner was intercepted by the concerned officials of the Customs Department and two gold *kadas* which were worn by the Petitioner were seized.

4. The pre-printed Show Cause Notice (hereinafter, *'SCN'*) waiver was obtained from the Petitioner and even the personal hearing, in terms thereof,

was waived. The appraisal of the two gold *kadas* were conducted and the Order-in-Original was passed on 23rd January 2024. In the Order-in-Original, the following directions were issued:

> "***ORDER***
> *I. I deny the 'Free Allowance if any, admissible to the Pax Mushlina for not declaring the detained goods to the Proper Officer at Red Channel as well to the Customs Officer at Green Channel who intercepted her and recovered the detained goods from her;*
> *II. I declare the passenger, Mushlina an "ineligible Passenger" for the purpose of the Notification No. 50/2017-Cus dated 30.06.2017 (as amended) read with Baggage Rules, 2016 (as amended);*
>
> *III. I order absolute confiscation of the above said "Two gold bangles having purity 995, weight 205 grams, valued at Rs. 10,06,181/-* recovered from the Pax Mushlina and detained vide DR No. DR/INDEL4/19.11.2022/000860 Dated 19.11.2022 under section 111(d): 1110,111(0) and 111(m) of the Customs Act, 1962;*
> *IV. I also impose a penalty of Rs. 1,00,000/- (Rupees One Lakh Only) on the Pax Mushlina under Section 112(a) and 112(a) of the Customs Act, 1962."*

5. As can be seen from the above, the two gold *kadas* were absolutely confiscated by the Adjudicating Authority. The Petitioner thereafter, filed an appeal against the said Order-in-Original. In the appeal, ld. Counsel for the Petitioner were heard. However, the Customs Department failed to appear before the Appellate Authority and the following Order-in-Appeal was passed:

> *"6.0 In light of discussions and findings as above, I allow the appeal partially OIO No 1168/000860/19.1120221WH/2023-24 dated 23-01-*

2024 and order that the impugned goods, Two gold bangles having purity 995, weighing 205 grams, valued at Rs. 10,06,181/- be released after payment of redemption fine in total of Rs. 100,000/- under Section 125 of the Customs Act, 1962 along with applicable duty. The penalty under Section 112(a) and 112(b) of the Customs Act, 1962 is upheld to Rs. 100,000/-. The Appeal is disposed with such modifications and consequential relief as above."

6. Ld. Counsel for the Petitioner submits that the said Order-in-Appeal has not been given effect to. As per the above Order-in-Appeal, the Petitioner has been permitted to redeem the goods subject payment of redemption fine of Rs.1,00,000/- along with applicable duty and penalty of Rs.1,00,000/-

7. Ld. Counsel for the Petitioner submits that in the appellate proceedings, the Customs Department usually does not appear as is seen in the present case. In addition, no notice has been received by the Petitioner for filing of the revision.

8. Mr. Vishal Chadha, ld. SSC for the Respondent submits that the revision application has been filed on 10th October 2024 before the Revisional Authority. Ld. SCC had handed a letter pertaining to the same. Let the same be taken on record.

9. A perusal of the filing proof of the same also shows that no copy has been served upon the Petitioner though the same has been filed almost one year ago. No notice also appears to have been issued in the said Revision to the Petitioner.

10. The Appellate Authority having ruled in favour of the Petitioner and the filing of the revision having not been informed to the Petitioner at all, left the Petitioner awaiting for the implementation of the order of the Appellate

Authority.

11. It is noticed in several cases that the Customs Department does not appear before the Appellate Authority and the orders of the Appellate Authority are not given effect to. The Customs Department, if it chooses to file a revision application, does not serve the said revision application on the Petitioner. Even the factum of filing of the Revision is not informed to the passenger concerned. In this case, almost 11 months have passed since the filing of the revision and no proceedings have been held in respect thereof.

12. Under these circumstances, this Court is of the view that since the Commissioner (Appeals) has already taken a decision in favour of the Petitioner, the said Order-in-Appeal deserves to be given effect to. Accordingly, let the Appellate Authority's order be given effect to.

13. In view of the delay which has been caused by the Customs Department, the warehousing charges shall stand waived in the present case. The applicable customs duty and the fine/penalty shall, however, be paid.

14. The Petitioner shall appear before the Customs Authority on **9th October 2025** at **11:00 AM.**

15. The Nodal Officer mentioned below shall facilitate the Petitioner's appearance before the competent authority for compliance with the present order:

> ***Mr. Sandeep Lamba, Superintendent, Customs***
> ***Office of Commissioner, Customs***
> ***IGI Airports, T-3, New Delhi***
> ***Mobil No.7405345000***
> ***Email id: igilegaldelhi@gmail.com***

16. In future, the Customs Department shall ensure that there is adequate representation of the Customs Department before the Appellate Authorities.

Whenever any revision application is filed, notice of the same ought to be given to the concerned passenger so that the said passenger has information of the filing of the same.

17. The writ petition, along with pending applications, is disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

SEPTEMBER 16, 2025
kk/ck